IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

WP(C).No. 7205 of 2007(G)

PETITIONER:

K.GOPALAKRISHNAN, S/O KARUNAKARAN NAIR,
AGED 48, "KRISHNAKRIPA", NEAR A.P.BRIDGE,
THEVARA P.O., ELAMKULAM VILLAGE, KANAYANNUR TALUK,
ERNAKULAM, KOCHI- 682 013.

BY ADV. DR.V.N.SANKARJEE
SRI.V.N.MADHUSUDANAN
SMT.R.UDAYA JYOTHI

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY, CO-OPERATIVE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES
FOR THE SALE, KERALA, THIRUVANANTHAPURAM.

3. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (VIGILANCE CELL), O/O.THE REGISTRAR
OF CO-OPERATIVE SOCIEITIES, THIRUVANANTHAPURAM.

4. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES(GENERAL), ERNAKULAM,PIN-682 016.

5. THE PRESIDENT, THEVARA URBAN
CO-OPERATIVE SOCIETY LTD. NO.5.784,THEVARA P.O.,
KOCHI-13.

R5 BY ADV. SRI.P.K.VIJAYAMOHANAN
R1 TO 4 BY G.P. SRI.P.K.RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/04/2007, THE COURT ON 12/04/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE LETTER DT.5.1.2007 ISSUED BY R5 TO THE PETITIONER.

P2: TRUE COPY OF RECEIPT OF REMITTANCE DT.8.1.2007 FOR RS.88,000/-.

P3: TRUE COPY OF STATEMENT SUBMITTED BY PETITIONER DT.8.1.2007.

P4: TRUE COPY OF APPLICATION FILED BY THE PETITIONER BEFORE R2 DT.21.2.2007.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 7205 OF 2007

Dated this the 12th day of April, 2007

JUDGMENT

Petitioner's allegation is that bogus account was opened in the name of one K. Raju in the Thevara Urban Co-op. Society Ltd. by the Secretary of the Society then in charge. Substantial amounts received by the society towards interest on society's deposit with the District Co-op. Bank were diverted to this bogus account and allowed to be withdrawn through cash cheques. Petitioner is proceeded against alleging petitioner's involvement. However, petitioner's case is that bogus account was operated by another person and petitioner has no involvement in this. In either case, opening of account in the name of non-existing person should be first inquired into and it cannot be said that such account is opened without any motives. If the account is opened without proper proof of address and introduction, then account holder may be altogether bogus. In any case it is a case of misappropriation of amounts due to Thevara Urban Co-op. Society Ltd. and I see no reason why the Bank did not choose to pursue the criminal

complaint filed before police. Counsel for the fifth respondent submitted that Bank has filed a criminal complaint before the Thevara Police Station. In the circumstances, W.P. is disposed of directing the Sub Inspector of Police in charge of Thevara Police Station to take up the complaint filed by the fifth respondent and investigate the case, identify the persons responsible and charge sheet them if there is a case for it. Investigation should be completed within three months from the date of production of a copy of this judgment by the petitioner or the fifth respondent. The other issues raised in the W.P. are left open.

(C.N.RAMACHANDRAN NAIR)
Judge